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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,902	11/03/2006	Egil Jellum	Q-90288	7146
23373 7590 10/07/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
CHOI, FRANK I				
ART UNIT		PAPER NUMBER		
1616				
MAIL DATE		DELIVERY MODE		
10/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,902

Applicant(s)

JELLUM ET AL.

Examiner

FRANK I. CHOI

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 3/15/2007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1-5, 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al. (US Pat. 5,804, 203) in view of

Hahn et al. disclose that skin conditions such as psoriasis produce an intrinsic skin irritation (Column 3, lines 35-50). It is disclosed that strontium is effective in suppressing skin irritation due to sources such as chemical and environmental exposure or tissue inflammation, injury or skin pathology (Column 9, lines 13-25). It is disclosed that the amount strontium can be reduced if a skin penetration-enhancing is added (Column 14, lines 54-68). It is disclosed that the strontium cation is combined with a suitable anion, such as nitrate, chloride, bromide, iodide, acetate, amino acids, EDTA, etc. (Column 16, lines 10-38). It is disclosed that the other active ingredients can be added such as anti-acne drugs (Column 19, lines 53-55).

US 5,866,168 disclose that strontium is a substance P antagonist and is effective in the treatment of pain, inflammatory diseases, such as rheumatoid arthritis, psoriasis, acne, etc. (Column 1).

Denhem et al. disclose that radiation therapy cause inflammation of skin tissues (page 132).

Remington's discloses that dimethyl sulfoxide is a permeation enhancer but is also effective as a anti-inflammatory agent (Page 1121).

Hahn et al. disclose the use of strontium to treat inflammation. The difference between Hahn et al. and the claimed invention is that Hahn et al. does not expressly disclose the treatment of inflammation with strontium, the use of dimethylsulphoxide (DMSO) as a permeation enhancer and the treatment of inflammation associated with radiation therapy or arthritis.

However, the prior art amply suggests the same as Hahn et al. discloses that strontium is effective in treating irritation where one of the causes of irritation include tissue inflammation, Remington's discloses that DMSO is an anti-inflammatory and permeation enhancer, Denham et al. disclose that radiation therapy can cause inflammation of the skin and US Pat. 5,866,168 discloses that strontium is effective in the treating of inflammatory diseases such as rheumatoid arthritis. As such, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to modify the prior art as above with the expectation that strontium would be effective in treating various inflammatory conditions including that caused by radiation therapy and rheumatoid arthritis and that DMSO increase the bioavailability of the strontium and provided added anti-inflammatory activity.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Conclusion

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a compressed schedule and may be reached Monday, Tuesday, Wednesday and Thursday, 6:00 am – 4:30 pm (EST).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Johann R. Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
October 9, 2008

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/Johann R. Richter/

Supervisory Patent Examiner, Art Unit 1616